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Office Memorandum • UNITED STATES GOVERNMENT***OGC Has Reviewed***

TO : General Counsel

DATE: APR 11 1953

FROM : Assistant Director (Personnel)

SUBJECT: Delegation of Authority to Administer the Oath of Office

1. In accordance with present Agency policy it is necessary for the Director of Central Intelligence to delegate to individuals by name the authority to administer to civilian employees of the CIA the oath of office or any other oath required by law in connection with employment, with the exception of the Officer's Certificate of Residence.
2. It is my belief that, if not prohibited by law, it would further the efficient operation of Agency personnel administration if these delegations were made to positions rather than to individuals by name. The adoption of such a policy would provide for the continuity of this authority in specific positions, automatically vesting this authority in the incumbent of the position and terminating that authority at such time as he ceases to perform the duties of the position. The policy could be implemented by the issuance of a single directive which would be of a permanent nature and would eliminate the temporary type of delegations now made.
3. The basic authority granted to the heads of departments to delegate the authority to administer the oath of office is contained in Section 206 of the Independent Offices Appropriation Act of 1944 (Public Law 90, 78th Congress). This Section provides that, "Hereafter any officer or employee of any of the executive departments or independent establishments, including any agency the majority of stock of which is owned by the Government of the United States, designated in writing by the head thereof for such purpose, is hereby authorized to administer the oath required by Section 1757 Revised Statutes, as amended (5 U.S.C. 16), incident to entrance into the executive branch of the Federal Government, or any other oath required by law in connection with employment therein, such oath to be administered without charge or fee and to have the same force and effect as oaths administered by officers having seals."
4. It is assumed without discussion that the present delegations to individuals by name are valid delegations and that the Director of Central Intelligence may therefor delegate the authority to administer the oath of office to "officers and employees" as provided in Section 206 of Public Law 90. There is a question, however, whether it was the intent of Congress in using the words "officer and employee" that delegations be made only to individuals by name and not to positions.
5. Although the Comptroller General has ruled that the heads of departments may not delegate to subordinates the authority conferred upon them by

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Section 206 of Public Law 90, without specific authorization to the individual head of the department to delegate authority of this and a similar nature (29 Comp. Gen. 386 as modified by 29 Comp. Gen. 519), this Office is aware of no decision by the Comptroller General to the effect that this authority must be granted to individuals by name.

6. In a decision dealing with the delegation of another basic authority (the authority to authorize newspaper advertising) the Comptroller General stated that the delegation of this authority to "subordinate officials" could be made "by name or position, as he [the head of the department] desires." (28 Comp. Gen. 305)

7. Attention is directed to Chapter A7.9-2b(2), Civilian Personnel Regulations, Department of the Army (Tab A) and to Section M5-2, Part I g (1), Veterans Administration Manual for Personnel Administration entitled Authority To Administer Oath (Tab B) which delegate the authority to administer the oath of office to positions. A similar delegation of this authority may be found in Section AF A 10.25, Air Force Civilian Personnel Manual.

8. In consideration of the above, your opinion is requested as to whether the Director of Central Intelligence may legally delegate the authority to administer the oath of office to positions rather than to individuals by name. If there is some doubt as to the legality of such a delegation, then it is requested that a specific decision be obtained from the Comptroller General as to whether the Director of Central Intelligence may make such a delegation.

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Assistant Director (Personnel)

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